

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

CHAZ D. PINKSTON

PLAINTIFF

v.

CIVIL ACTION NO. 5:18-cv-103-DCB-MTP

PELICIA HALL, ET AL.

DEFENDANTS

ORDER

THIS MATTER is before the Court on Plaintiff's Motions for Default Judgment [53] [54] [55] [56] [57] [58] [59] [60] [61] [72] [73] [74] [75] [76] [77] [78] [79] [80] [81] [82] [83] [84]. Having considered the Motions and the record, the Court finds that the Motions should be DENIED.

Plaintiff, a prisoner proceeding *pro se* and *in forma pauperis*, brought this action pursuant to 42 U.S.C. § 1983. In the instant Motions, Plaintiff requests that the Court enter default judgments against Defendants Justin Green, Ms. Dunmore, Trinity Services Group, Inc., Michael Johnson, Jacob Jones, B. Chester, Officer King, Larry Lee, Delando Miles, Pelicia Hall, Jerry Williams, Tony Compton, Roger Davis, Richard Pennington, Chandra Berryman, Gloria Perry, Mike Hatten, Centurion of Mississippi, LLC, Eshunna Robinson, April Meggs, Nathaniel Reed, and James Burke. Plaintiff asserts that a default has been entered against each of these Defendants. Plaintiff, however, misrepresents or misconstrues the record. A default has not been entered against any of these Defendants, and the record demonstrates that none of these Defendants are in default.

On January 29, 2019, the Clerk of Court provided Defendants Notices of a Lawsuit and Requests to Waive Service of a Summons [20] [21] [22] [23] [24].¹ The Notices provided Defendants thirty days in which to waive formal service of a summons by signing and returning the waiver.² Defendants Trinity Services Group, Inc., Larry Lee, Pelicia Hall, Jerry Williams, Tony Compton, Roger Davis, Richard Pennington, Chandra Berryman, Gloria Perry, Mike Hatten, Centurion of Mississippi, LLC, Eshunna Robinson, April Meggs, Nathaniel Reed, and James Burke waived service of summonses. *See* Returns [32] [33] [34] [35] [36] [41] [42] [64]. On April 1, 2019, these Defendants timely filed Answers [67] [69] and a Motion to Dismiss [70].³ As all of these Defendants timely filed either an answer or a motion to dismiss, Plaintiff's Motions seeking default judgments against them will be denied.

Defendants Justin Green, Ms. Dunmore, Michael Johnson, Jacob Jones, B. Chester, Officer King, and Delando Miles did not waive formal service of a summons. Pursuant to Fed. R. Civ. P. 4(d) and as explained in the Notices [20] [21] [22] [23] [24], Defendants were not required to provide a waiver of service, but were requested to do so in order to avoid the expenses incurred in serving process. Thus, the Court directed the Clerk of Court to issue summonses to these Defendants and directed the United States Marshal to serve these Defendants. *See* Orders [44] [51]; Summonses [45] [52].

¹ Because Plaintiff is proceeding IFP, officers of the Court are tasked with issuing and serving process pursuant to 28 U.S.C. § 1915(d). Where appropriate, the Court requests that defendants, in cases like this one, waive service of process before directing the United States Marshal to serve the defendants.

² A second Notice of a Lawsuit and Request to Waiver Service of a Summons [50] was provided to Defendant Larry Lee on March 8, 2019.

³ Defendant Larry Lee was required to file his answer by May 7, 2019, and the other Defendants were required to file their answers by April 1, 2019. *See* Returns [32] [33] [34] [35] [36] [41] [42] [64].

The record reflects that service of process was executed on Defendants B. Chester, Jacob Jones, and Ms. Dunmore on April 12, 2019. *See* Returns [91] [92].⁴ Accordingly, answers are not due from Defendants Chester, Jones, and Dunmore until May 3, 2019.⁵ As the time for these Defendants to file answers has not lapsed, Plaintiff's Motions seeking default judgments against them will be denied.

On April 15, 2019, the United States Marshal filed a Return [90] showing that service of process was not executed on Defendants Justin Green, Michael Johnson, Officer King, and Delando Miles. On April 16, 2019, the Court entered an Order [93] directing Plaintiff to provide more information on the identities and locations of Defendants Johnson and King. That same day, the Court entered an Order [94] directing the Clerk of Court to provide Defendants Green and Miles Notices of a Lawsuit and Requests to Waiver Service of a Summons. Defendants Green and Miles may waive formal service of a summons by returning the waivers on or before May 16, 2019. Because Defendants Green, Johnson, King, and Miles have not waived service of process or been properly served, Plaintiff's Motions seeking default judgments against them will be denied.

IT IS, THEREFORE, ORDERED that Plaintiff's Motions for Default Judgment [53] [54] [55] [56] [57] [58] [59] [60] [61] [72] [73] [74] [75] [76] [77] [78] [79] [80] [81] [82] [83] [84] are DENIED.

SO ORDERED this the 19th day of April, 2019.

s/Michael T. Parker
UNITED STATES MAGISTRATE JUDGE

⁴ The Returns [91] [92] reflect that (1) Chester's aunt accepted service on behalf of Chester; (2) Jones's wife accepted service on behalf of Jones; and (3) a human resources manager accepted service on behalf of Dunmore.

⁵ This assumes that process was properly served on these Defendants.